



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-3032/1  
KP:skw

## 2021 ASSEMBLY BILL 743

December 7, 2021 - Introduced by Representatives DALLMAN, SUMMERFIELD, DITTRICH, GUNDRUM, MURSAU, SUBECK, SWEARINGEN, THIESFELDT and TUSLER, cosponsored by Senators ROTH, FELZKOWSKI and WANGGAARD. Referred to Committee on Criminal Justice and Public Safety.

- 1     **AN ACT to amend** 100.20 (5) and 100.20 (6); and **to create** 100.20 (1x) and 100.75  
2             of the statutes; **relating to:** information disclosure by online marketplaces  
3             related to high-volume sellers and granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

This bill establishes various requirements related to third-party sellers and the online marketplaces through which they sell consumer products. Under the bill, third-party sellers who complete at least 200 sales through a particular online marketplace over a 12-month period that have a total revenue of at least \$20,000 are considered “high-volume third-party sellers” and must disclose their full name, physical address, telephone number, and email address and certain banking information to the online marketplace. Online marketplaces must verify this information and annually check with high-volume third-party sellers for updated information. If a high-volume third-party seller fails to respond within 10 days to an inquiry for updated information, an online marketplace must suspend the seller from participating on its marketplace.

The bill also requires online marketplaces to conspicuously disclose high-volume third-party sellers’ contact information to consumers, subject to certain exceptions. If a high-volume third-party seller is an individual, the individual may prevent the online marketplace from disclosing the individual’s residential address and personal telephone number. Under the bill, online marketplaces must also provide a mechanism for consumers to report electronically or by telephone suspicious marketplace activity by a high-volume third-party seller.

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The Department of Agriculture, Trade and Consumer Protection enforces the bill's requirements and may promulgate rules necessary for implementing the bill. A violation of the bill's requirements is an unfair trade practice. Under current law, DATCP may issue special orders against a person enjoining the use of any unfair trade practice and may commence an action in court to restrain a person from violating a special order. The bill also prohibits cities, villages, towns, and counties from enacting or enforcing their own requirements related to requiring online marketplaces to verify information involving high-volume third-party sellers or to disclose information to consumers.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 100.20 (1x) of the statutes is created to read:

2           100.20 (1x) It is an unfair trade practice for a person to violate s. 100.75.

3           **SECTION 2.** 100.20 (5) of the statutes is amended to read:

4           100.20 (5) Any person suffering pecuniary loss because of a violation by any  
5 other person of s. 100.70 or any order issued under this section may sue for damages  
6 therefor in any court of competent jurisdiction and shall recover twice the amount  
7 of such pecuniary loss, together with costs, including a reasonable attorney fee. This  
8 subsection does not apply to an order related to activity prohibited under s. 100.75.

9           **SECTION 3.** 100.20 (6) of the statutes is amended to read:

10           100.20 (6) The department may commence an action in circuit court in the  
11 name of the state to restrain by temporary or permanent injunction the violation of  
12 s. 100.70 or 100.75 or any order issued under this section. The court may in its  
13 discretion, prior to entry of final judgment make such orders or judgments as may  
14 be necessary to restore to any person any pecuniary loss suffered because of the acts  
15 or practices involved in the action, provided proof thereof is submitted to the

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1 satisfaction of the court. The department may use its authority in ss. 93.14 and 93.15  
2 to investigate violations of s. 100.70 or 100.75 or any order issued under this section.

3 **SECTION 4.** 100.75 of the statutes is created to read:

4 **100.75 Information disclosure by online marketplaces.** (1) In this  
5 section:

6 (a) "Consumer product" means a product used primarily for personal, family,  
7 or household purposes.

8 (b) "High-volume 3rd-party seller" means a 3rd-party seller who in any  
9 continuous 12-month period during the immediately preceding 24 months has  
10 engaged in at least 200 discrete sales or transactions of new or unused consumer  
11 products that have resulted in a total of at least \$20,000 in gross revenues.

12 (c) "Online marketplace" means an electronically based or accessed platform  
13 that allows, facilitates, or enables 3rd-party sellers to sell, purchase, store, ship, or  
14 deliver a consumer product in this state.

15 (d) 1. "Third-party seller" means a seller, other than an operator or owner of  
16 an online marketplace, that sells, offers for sale, or contracts to sell a consumer  
17 product in this state through an online marketplace.

18 2. "Third-party seller" does not include a seller that satisfies all of the  
19 following:

20 a. The seller is a business entity that makes available to the public its name,  
21 business address, and contact information.

22 b. The seller has an ongoing contractual relationship with the online  
23 marketplace to manufacture, distribute, sell at wholesale, or fulfill shipments of  
24 consumer products.

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1 c. The seller provides to the online marketplace the information described in  
2 sub. (2) and the online marketplace verifies the information using a method  
3 described in sub. (3) (c).

4 **(2)** (a) A 3rd-party seller who becomes a high-volume 3rd-party seller on an  
5 online marketplace shall provide the online marketplace with the following  
6 information within 24 hours of becoming a high-volume 3rd-party seller:

7 1. One of the following:

8 a. If the 3rd-party seller is an individual, a copy of a government-issued photo  
9 identification card for the individual that includes the individual's name and  
10 physical address.

11 b. If the 3rd-party seller is not an individual, either a copy of a  
12 government-issued photo identification card for an individual who acts on the  
13 3rd-party seller's behalf that includes the individual's name and physical address  
14 or a copy of a government-issued record or tax document that includes the 3rd-party  
15 seller's business name and physical address.

16 2. A working email address and working telephone number for the 3rd-party  
17 seller.

18 3. A business tax identification number, or, if the 3rd-party seller does not have  
19 a business tax identification number, a taxpayer identification number.

20 4. Whether the 3rd-party seller exclusively offers or advertises its consumer  
21 products on the online marketplace.

22 5. Whether the 3rd-party seller also engages in manufacturing, importing, or  
23 reselling consumer products.

24 (b) A 3rd-party seller who becomes a high-volume 3rd-party seller on an  
25 online marketplace shall within 24 hours of becoming a high-volume 3rd-party

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1 seller provide the 3rd-party seller's bank account information, or, if the 3rd-party  
2 seller does not have a bank account, the name of the payee for payments issued by  
3 the online marketplace to the 3rd-party seller to either of the following:

4 1. The online marketplace.

5 2. A payment processor or other person contracted by the online marketplace  
6 to maintain the information if the online marketplace can obtain the information on  
7 demand from the payment processor or other person.

8 (c) 1. At least annually, an online marketplace shall request each high-volume  
9 3rd-party seller that participates on the online marketplace to inform the online  
10 marketplace of any change to information provided under this subsection.

11 2. A high-volume 3rd-party seller shall do one of the following within 10 days  
12 of receiving a request under subd. 1.:

13 a. If the seller's information previously provided under this subsection is  
14 unchanged, electronically certify to the online marketplace that the previously  
15 provided information is unchanged.

16 b. If the seller's information previously provided under this subsection has  
17 changed, provide to the online marketplace an update of the information required  
18 under this subsection.

19 3. If a high-volume 3rd-party seller fails to satisfy subd. 2. after receiving a  
20 request from an online marketplace under subd. 1., the online marketplace shall  
21 suspend the high-volume 3rd-party seller from participating in the online  
22 marketplace until the high-volume 3rd-party seller makes a response described in  
23 subd. 2. a. or b.

24 **(3)** (a) An online marketplace shall verify any bank account information  
25 provided under sub. (2) (b) unless the the accuracy of the information is confirmed

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1 to the online marketplace by a payment processor or other person contracted by the  
2 online marketplace.

3 (b) An online marketplace shall verify information, other than information  
4 contained in a copy of a government-issued tax document, received under sub. (2)  
5 within 10 days of receipt.

6 (c) An online marketplace shall verify information under this subsection by  
7 using at least one of the following methods:

8 1. An identity verification system having the capability of confirming a  
9 3rd-party seller's name, email address, physical address, and telephone number.

10 2. A combination of two-factor authentication, public records search, and  
11 presentation of government-issued identification.

12 (4) (a) Subject to par. (b), for consumer products offered for sale on an online  
13 marketplace by a high-volume 3rd-party seller, the online marketplace shall  
14 disclose the following information in a conspicuous manner:

15 1. The high-volume 3rd-party seller's full name.

16 2. The high-volume 3rd-party seller's full physical address.

17 3. Whether the high-volume 3rd-party seller engages in manufacturing,  
18 importing, or reselling consumer products.

19 4. The high-volume 3rd-party seller's telephone number and email address.

20 5. Any other information the department determines is necessary to prevent  
21 evasion of the requirements under this subsection.

22 (b) 1. If a high-volume 3rd-party seller has only a residential address and  
23 requests that the online marketplace not disclose that address, the online  
24 marketplace shall disclose only the country, and, if applicable, the state of the  
25 high-volume 3rd-party seller's residence. If a request is made under this

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1 subdivision, the online marketplace shall inform consumers that no business  
2 address is available for the high-volume 3rd-party seller and direct consumers to  
3 submit inquiries to the seller by telephone or email.

4 2. If a high-volume 3rd-party seller has only a personal telephone number and  
5 requests that the online marketplace not disclose that telephone number, the online  
6 marketplace may not disclose the telephone number and shall inform consumers  
7 that no telephone number is available for the high-volume 3rd-party seller and  
8 direct consumers to submit inquiries to the seller's email address.

9 3. If a high-volume 3rd-party seller is a business that has a physical address  
10 for consumer product returns and requests that the online marketplace disclose that  
11 address to consumers, the online marketplace shall disclose only the physical  
12 address for consumer product returns.

13 (c) Notwithstanding par. (b), an online marketplace shall disclose the  
14 information described in par. (a) relating to a high-volume 3rd-party seller 10 days  
15 after providing notice to the seller if the seller does either of the following:

16 1. Makes a false representation to the online marketplace related to  
17 information described in par. (b).

18 2. Fails to provide a responsive answer within a reasonable time to a consumer  
19 inquiry.

20 (5) (a) An online marketplace shall make available in a conspicuous manner  
21 a mechanism for reporting electronically and by telephone suspicious marketplace  
22 activity by a high-volume 3rd-party seller.

23 (b) An online marketplace shall conspicuously display a message encouraging  
24 consumers to report suspicious activity to the online marketplace using the  
25 mechanism described in par. (a).

